

## CHAPTER 364

### RETAIL CREDIT FINANCING INSTITUTIONS

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or more sellers. The term includes but is not limited to a bank, trust company, loan and investment company, savings and loan association, licensed sales finance company as the same is defined in the Missouri motor vehicle time sales law (chapter 365, RSMo) or registrant under sections 367.100 to 367.200, RSMo, if so engaged; but does not include a distributor insofar as he takes assignments of retail installment purchase contracts covering goods which were distributed by him to the retailer thereof.

(3) **"Person"**, an individual, partnership, corporation, association, and any other group however organized. Words used herein shall have the same meaning as is ascribed to such words in the Missouri retail credit sales law (sections 408.250 to 408.370, RSMo).  
(L. 1963 p. 463 § 2)

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**364.010. Citation of law.** - This chapter may be cited as the "Missouri Financing Institution Licensing Law".  
(L. 1963 p. 463 § 1)

**364.020. Definitions.** - Unless otherwise clearly indicated by the context, when used in this chapter the following terms mean:

(1) **"Director"**, the office of the director of the division of finance.

(2) **"Financing institution"**, a person engaged in the business of purchasing or otherwise acquiring retail time contracts or accounts under retail charge agreements from one

**364.030. Financial institutions to obtain license, exceptions - application - fee.** - 1. No person shall engage in the business of a financing institution in this state without a license therefor as provided in this chapter; except, however, that no bank, trust company, loan and investment company, licensed sales finance company, registrant under the provisions of sections 367.100 to 367.200, RSMo, or person who makes only occasional purchases of retail time contracts or accounts under retail charge agreements and which purchases are not being made in the course of repeated or successive purchase of retail installment contracts from the same seller, shall be required to obtain a license under this chapter but shall comply with all the laws of this state applicable to the conduct and operation of a financing institution.

2. The application for the license shall be in writing, under oath and in the form prescribed by the director. The application shall contain the name of the applicant; date of incorporation, if incorporated; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the name and resident address of the owner or partners or, if a corporation or association, of the directors, trustees and principal officers, and other pertinent information as the director may require.

3. The license fee for each calendar year or part thereof shall be the sum of three hundred dollars for each place of business of the licensee in this state which shall be paid into the general revenue fund. The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time.

4. Each license shall specify the location of the office or branch and must be conspicuously displayed therein. In case the location is changed, the director shall either endorse the change of location of the license or mail the licensee a certificate to that effect, without charge.

5. Upon the filing of an application, and the payment of the fee, the director shall issue a license to the applicant to engage in the business of a financing institution under and in accordance with the provisions of this chapter for a period which shall expire the last day of December next following the date of its issuance. The license shall not be transferable or assignable. No licensee shall transact any business provided for by this chapter under any other name.

(L. 1963 p. 463 § 3, A.L. 1986 H.B. 1195, A.L. 2003 S.B. 346)



**364.040. License denied or suspended, grounds - hearing and review.** - 1. Renewal of a license originally granted under this chapter may be denied, or a license may be suspended or revoked by the director on the following grounds:

(1) Material misstatement of fact in any application for license under this chapter;

(2) Willful failure to comply with provisions of this chapter relating to retail time transactions;

(3) Defrauding any retail buyer to the buyer's damage;

(4) Fraudulent misrepresentation, circumvention or concealment by the licensee through whatever subterfuge or device of any of the material particulars or the nature thereof required to be stated or furnished to a buyer under the Missouri retail credit sales law (sections 408.250 to 408.370, RSMo).

2. If a licensee is a firm, association or corporation, it shall be sufficient cause for the suspension or revocation of a license that any officer, director or trustee of a licensed firm, association or corporation, or any member of a licensed partnership, has so acted or failed to act as would be cause for suspending or revoking a license to the party as an individual. Each licensee shall be responsible for the acts of any or all of his employees while acting as his agent, if such licensee, after actual knowledge of the acts, retained the benefits, proceeds, profits or advantages accruing from the acts or otherwise ratified the acts.

3. No license shall be denied, suspended or revoked except after hearing thereon. The hearing and review thereof shall be conducted according to chapter 536, RSMo.

(L. 1963 p. 463 § 4)

**364.050. Director may investigate - buyer may make complaint.** - 1. The director, or his duly authorized representatives, shall have full power and authority at any time to make any investigation considered necessary of financing institutions and of other persons having personal knowledge of the matters under investigation and, to the extent necessary for this purpose, may compel the production of all relevant books, records, accounts and documents of financing institutions and other persons with respect to their retail time transactions.

2. Any buyer having reason to believe that his retail time transaction with respect to the Missouri retail credit sales law (sections 408.250 to 408.370, RSMo) has been violated may file with the director a written complaint setting forth the details of the alleged violation, and the director, upon receipt of the complaint, may inspect the pertinent books, records, letters and contracts of the financing institution and of the seller involved relating to the specific written complaint.

(L. 1963 p. 463 § 5)

**364.060. Director may promulgate rules and regulations, issue subpoenas - enforcement - rulemaking, procedure, generally, this chapter - review.** - 1. The director shall have the power to adopt and promulgate all rules and regulations necessary to carry out the intent and purposes of this chapter. A copy of every rule or regulation shall be mailed to each financing institution, postage prepaid, at least fifteen days in advance of its effective date; except, however, the failure of a financing institution to receive a copy of the rules or regulations shall not exempt it from the duty of compliance with the rules and regulations lawfully promulgated hereunder.

2. The director shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records and other evidence before him in any matter over which he has jurisdiction, control or supervision pertaining to this chapter. The director shall have the power to administer oaths and affirmations to any persons whose testimony is required.

3. If any person refuses to obey any such subpoena, or to give testimony or to produce evidence as required thereby, any judge of the circuit court of the county in which the licensed premises are located may, upon application and proof of the refusal, make an order awarding process of subpoena, or subpoena duces tecum, for the witness to appear before the director and to give testimony, and to produce evidence as required thereby. Upon filing the order in the office of the clerk of the court, the clerk shall issue process of subpoena, as directed, under the seal of the court, requiring the person to whom it is directed to appear at the time and place therein designated.

4. If any person served with any subpoena shall refuse to obey and to give testimony, and to produce evidence as required thereby, the director may apply to the judge of the court issuing the subpoena for an attachment against the person as for a contempt. The judge, upon satisfactory proof of the refusal, shall issue an attachment, directed to any sheriff, constable or police officer, for the arrest of the person, and upon his being brought before the judge proceed to a hearing of the case. The judge shall have power to enforce obedience to the subpoena, and the answering of any question, and the production of any evidence, that may be proper by a fine, not exceeding one hundred dollars or by imprisonment in the county jail, or by both fine and imprisonment, and to compel the witness to pay the costs of the proceeding to be taxed.

5. No rule or portion of a rule promulgated under the authority of this chapter shall become effective until it has been approved by the joint committee on administrative rules in accordance with the procedures provided herein, and the delegation of the legislative authority to enact law by the adoption of such rules is dependent upon the power of the joint committee on administrative rules to review and suspend rules pending ratification by the senate and the house of representatives as provided herein.

6. Upon filing any proposed rule with the secretary of state, the filing agency shall concurrently submit such proposed rule to the committee which may hold hearings upon any proposed rule or portion thereof at any time.

7. A final order of rulemaking shall not be filed with the secretary of state until thirty days after such final order of rulemaking has been received by the committee. The committee may hold one or more hearings upon such final order of rulemaking during the thirty-day period. If the committee does not disapprove such order of rulemaking within the thirty-day period, the filing agency may file such order of rulemaking with the secretary of state and the order of rulemaking shall be deemed approved.

8. The committee may, by majority vote of the members, suspend the order of rulemaking or portion thereof by action taken prior to the filing of the final order of rulemaking only for one or more of the following grounds:

(1) An absence of statutory authority for the proposed rule;

(2) An emergency relating to public health, safety or welfare;

(3) The proposed rule is in conflict with state law;

(4) A substantial change in circumstance since enactment of the law upon which the proposed rule is based.

9. If the committee disapproves any rule or portion thereof, the filing agency shall not file such disapproved portion of any rule with the secretary of state and the secretary of state shall not publish in the Missouri Register any final order of rulemaking containing the disapproved portion.

10. If the committee disapproves any rule or portion thereof, the committee shall report its findings to the senate and the house of representatives. No rule or portion thereof disapproved by the committee shall take effect so long as the senate and the house of representatives ratify the act of the joint committee by resolution adopted in each house within thirty legislative days after such rule or portion thereof has been disapproved by the joint committee.

11. Upon adoption of a rule as provided herein, any such rule or portion thereof may be suspended or revoked by



the general assembly either by bill or, pursuant to section 8, article IV of the constitution, by concurrent resolution upon recommendation of the joint committee on administrative rules. The committee shall be authorized to hold hearings and make recommendations pursuant to the provisions of section 536.037, RSMo. The secretary of state shall publish in the Missouri Register, as soon as practicable, notice of the suspension or revocation.

(L. 1963 p. 463 § 6, A.L. 1993 S.B. 52)

**364.070. Penalties.** - Any person who knowingly violates any provision of this chapter or of any law of this state relating to the business of a financing institution in this state without a license therefor except as provided in this chapter is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five hundred dollars or by confinement in the county jail for not more than six months or both.

(L. 1963. p. 463 § 7)

## PREMIUM FINANCE COMPANIES

**364.100. Definitions.** - As used in sections 364.100 to 364.160, the following terms shall mean:

(1) **"Director"**, the director of the division of finance of the state of Missouri;

(2) **"Person"**, an individual, partnership, association, business corporation, nonprofit corporation, common law trust, joint-stock company, or any other group of individuals, however organized;

(3) **"Premium finance agreement"**, an agreement by which an insured or prospective insured promises to pay to a premium finance company the amount advanced or to be advanced to an insurer or to an insurance agent or broker in payment of premiums of an insurance contract together with interest or discount and a service charge, as authorized and limited by sections 364.100 to 364.160;

(4) **"Premium finance company"**, a person engaged in the business of entering into premium finance agreements or acquiring premium finance agreements from other premium finance companies.

(L. 1984 S.B. 636 § 1)

### **364.105. Registration required - fee - forms. -**

1. No person shall engage in the business of a premium finance company in this state without first registering as a premium finance company with the director.

2. The annual registration fee shall be three hundred dollars payable to the director as of the first day of July of each year. The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time.

3. Registration shall be made on forms prepared by the director and shall contain the following information:

(1) Name, business address and telephone number of the premium finance company;

(2) Name and business address of corporate officers and directors or principals or partners;

(3) A sworn statement by an appropriate officer, principal or partner of the premium finance company that:

(a) The premium finance company is financially capable to engage in the business of insurance premium financing; and

(b) If a corporation, that the corporation is authorized to transact business in this state;

(4) If any material change occurs in the information contained in the registration form, a revised statement shall be

submitted to the director accompanied by an additional fee of one hundred dollars.

(L. 1984 S.B. 686 § 2, A.L. 1986 H.B. 1195, A.L. 2003 S.B. 346)

**364.110. Records to be maintained by company.** - 1. A premium finance company shall maintain records of its premium finance transactions.

2. A premium finance company shall preserve its records of premium finance transactions, including cards used in a card system, if any, for at least two years after making the final entry with respect to any premium finance agreement. The preservation of records in photographic, microfilm or microfiche form constitutes compliance with this section.

(L. 1984 S.B. 686 § 3)

**364.115. Premium finance agreement, requirements, contents.** - A premium finance agreement shall:

(1) Be dated and signed by or on behalf of the insured, and the printed portion thereof shall be in at least eight point type;

(2) Contain the name and place of business of the insurance agent or broker negotiating the related insurance contract, the name and residence or place of business of the insured, the name and place of business of the premium finance company to which payments are to be made, a brief description of the insurance contracts involved and the amount of premium; and

(3) Set forth the following items, where applicable:

(a) The total amount of the premium;

(b) The amount of the down payment;

(c) The principal balance, meaning the difference between the amounts stated under paragraphs (a) and (b) of this subdivision;

(d) The amount of the interest or discount;

(e) The balance payable by the insured, meaning the sum of amounts stated under paragraphs (c) and (d) of this subdivision; and

(f) The number of installments required, the amount of each installment expressed in dollars, and the due date or period thereof.

(L. 1984 S.B. 686 § 4)

**364.120. Interest or discount, amount allowed, computation - prepayment of obligation - refund credit, calculation.** - 1. A premium finance company shall not charge, contract for, receive, or collect any interest or discount charge other than as permitted by sections 364.100 to 364.160.

2. The interest or discount is to be computed on the balance of the premiums due, after subtracting the down payment made by the insured in accordance with the premium finance agreement, from the effective date of the insurance contract, for which the premiums are being advanced, to and including the date when the final installment of the premium finance agreement is payable.

3. The interest or discount shall be a maximum of fifteen dollars per one hundred dollars per year, which shall be computed as a fifteen percent add-on interest rate, plus an additional service charge of ten dollars per premium finance agreement which need not be refunded on cancellation or prepayment; except that, if the insurance premiums being financed are for other than personal, family or household purposes, the parties to the premium finance agreement may agree to any rate of interest which shall be stated in the premium finance agreement. The interest or discount permitted by this subsection anticipates timely repayment in consecutive monthly installments equal in amount for a period of one year. For repayment in greater or lesser periods or in unequal, irregular, or other than monthly installments, the interest or discount may be computed at an equivalent effective rate having due regard for the timely payments of installments.



4. Notwithstanding the provisions of any premium finance agreement, any insured may prepay the obligation in full at any time and shall receive a refund credit. The amount of the refund shall be calculated by the actuarial method of calculating refunds and no more interest shall be retained by the lender than is actually earned.

(L. 1984 S.B. 686 § 5, A.L. 1986 H.B. 1207, A.L. 2002 S.B. 895)  
Effective 7-1-03

**364.125. Other charges allowed.** - 1. A premium finance agreement may provide for the payment by the insured of a delinquency charge of up to five percent of any installment which is in default for a period of five days or more. If the premium finance agreement is for personal, family or household purposes, the then maximum delinquency charge shall be fifteen dollars. If the default results in the cancellation of any insurance contract listed in the agreement, the agreement may provide for the payment by the insured of a cancellation charge of fifteen dollars.

2. A premium finance agreement may provide for payment of collection costs and attorney's fees equal to twenty percent of the outstanding indebtedness if the premium finance agreement is referred for collection to a collection agency or attorney who are not salaried employees of the premium finance company.

3. None of the charges referred to in this section shall be considered, directly or indirectly, in determining whether a violation of the usury laws has occurred under a premium finance agreement.

(L. 1984 S.B. 686 § 6)

**364.130. Cancellation of finance contract under power of attorney - requirements, procedure.** - 1. When a premium finance agreement contains a power of attorney clause enabling the premium finance company to cancel any insurance contract or contracts listed in the agreement, the insurance contract or contracts shall not be canceled by the premium finance company unless such cancellation is done in accordance with this section.

2. Not less than ten days' written notice shall be mailed to the insured, at the last known address shown on the records of the premium finance company, of the intent of the premium finance company to cancel the insurance contract unless the default is cured within such ten-day period.

3. After expiration of such ten-day period, the premium finance company may thereafter cancel such insurance contract or contracts by mailing to the insurer a notice of cancellation. The insurance contract shall be canceled as if such notice of cancellation had been submitted by the insured, but without requiring the return of the insurance contract or contracts. The premium finance company shall also mail a copy of the notice of cancellation to the insured at the last known address shown on the records of the premium finance company.

4. All statutory, regulatory, and contractual restrictions providing that the insurance contract may not be canceled unless notice is given to a governmental agency, mortgagee, or other third party shall apply where cancellation is effected under the provisions of this section. The insurer shall give the prescribed notice on behalf of itself or the insured to any governmental agency, mortgagee, or other third party on or before the second business day after the day it receives the notice of cancellation from the premium finance company and shall determine the effective date of cancellation taking into consideration the number of days' notice required to complete the cancellation.

(L. 1984 S.B. 686 § 7)

**364.135. Return of unearned premiums on cancellation of financed contract - time allowed.** - Whenever a financed insurance contract is canceled, the insurer shall return whatever gross unearned premiums are due under the insurance contract directly to the premium finance company for the account of the insured or insureds as soon as reasonably possible, but in no event later than sixty days after the effective date of cancellation. In the event that the crediting of return premiums to the account of the insured results in a surplus over the amount due from the insured, the premium finance company shall refund such excess to the insured, provided that no such refund shall be required if it amounts to less than one dollar.

(L. 1984 S.B. 686 § 8)

**364.140. Filing of agreement not required for validity against creditors.** - No filing of the premium finance agreement shall be necessary to perfect the validity of such agreement as a secured transaction as against creditors, subsequent purchasers, pledgees, encumbrancers, trustees in bankruptcy or any other insolvency proceedings under any law, or anyone having the status or power of the aforementioned or their successors or assigns.

(L. 1984 S.B. 686 § 9)

**364.145. Revenue deposited to state general revenue fund.** - All revenues collected by or paid to the director under the provisions of sections 364.100 to 364.160 shall be forwarded immediately to the director of revenue, who shall deposit them in the general revenue fund.

(L. 1984 S.B. 686 § 10)

**364.150. Application of law.** - The licensing provisions of sections 364.100 to 364.160 shall not apply to any insurance agent or insurance broker licensed to do business in this state. Nor shall the provisions of sections 364.100 to 364.160 apply to insurance premiums financed in connection with credit transactions.

(L. 1984 S.B. 686 § 11)

**364.155. Rules, suspension, reinstatement.** - Any rule or portion of a rule promulgated pursuant to sections 364.100 to 364.160 may be suspended by the joint committee on administrative rules if, after a hearing thereon, the committee finds that such rule or portion of the rule exceeds the statutory authority of the agency which promulgated the rule, or is inconsistent with the legislative intent of the authorizing statute. The general assembly may reinstate such rule by concurrent resolution signed by the governor.

(L. 1984 S.B. 686 § 12)

**364.160. Violation of law - misdemeanor.** - Any premium finance company willfully and knowingly violating the



provisions of sections 364.100 to 364.160 shall be guilty of a class A misdemeanor.  
(L. 1984 S.B. 686 § 13)



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